



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

COPY MAILED

SEP 12 2005

OFFICE OF PETITIONS

In re Application of
Datta, et al.
Application No.: 10/044,814
Filed: January 11, 2002
Attorney Docket No.: 14411HUUS02U
(NORT10-00073)
For: CHECK POINTING OF PROCESSING
CONTEXT OF NETWORK ACCOUNTING
COMPONENTS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 13, 2002 (certificate of mailing date August 5, 2002).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on January 11, 2002 without an executed oath or declaration. Accordingly, on February 19, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a filing fee, and a surcharge for their late filing.

In response, on August 13, 2002 (certificate of mailing date August 5, 2002), a petition for a four month extension of time and required fee, a declaration executed by 4 of 5 joint inventors, the surcharge, and application filing fee were filed.

The petition is signed by Attorney Robert P. McCutcheon and accompanying exhibits show that non-signing joint inventor Jeffrey Rogers was successfully mailed a copy of the application and declaration for the above-identified application, but did not respond to the written and telephone message requests that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The citizenship of signing inventor Utpal Datta is not included on the declaration. Mr. Datta's citizenship is listed in cursive writing as "Permanent Resident". The country, which was typewritten "USA" has been crossed out.

37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).

The citizenship of each inventor **must** be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Datta may correct his information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by Mr. Datta.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is **REQUIRED**. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions